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FEDERAL COMMUNICATIONS COMMISSION  
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BEFORE THE

# Federal Communications Commission

WASHINGTON, D. C.

In The Matter Of:

) GEN Docket No. 90-314  
) ET Docket No. 92-100  
)

ORIGINAL  
FILE

Amendment of the Commission's  
Rules to Establish New Personal  
Communications Services

) RM-7140, RM-7175, RM-7617,  
) RM-7618, RM-7760, RM-7782,  
) RM-7860, RM-7977, RM-7978,  
) RM-7979, RM-7980

To: The Commission

## REPLY COMMENTS OF PERTEL, INC.

PerTel, Inc. submits these Reply Comments in response to the Commission's Notice of Proposed Rulemaking. PerTel is a venture of Westinghouse Communications, Harron Communications, and the controlling principals of Douglas Cable Communications, formed for the purpose of developing and delivering personal communications services.

Many of the positions taken by PerTel in its Comments are supported by the Comments of other parties. Most importantly, there is a growing consensus among the major independent PCS proponents -- those knowledgeable parties not burdened by an interest in protecting some competitive service -- about what the Commission's rules regarding PCS should contain. For example, numerous parties support 40 MHz blocks

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of spectrum for PCS, 1/ with additional spectrum held in reserve for future use after a vibrant PCS industry develops. 2/ There is also a consensus among knowledgeable independent potential PCS operators that 49 Major Trading Areas should be used as licensing areas, 3/ and that at least some significant percentage of licenses should be awarded by streamlined comparative hearings. 4/ American Personal Communications and PerTel have each made detailed suggestions how streamlined paper hearings and use of expert analysts can be used to award licenses to the best qualified applicants without great cost to the Commission in time or resources. In any case, PerTel re-emphasizes here its belief that selecting the most qualified competitors in an increasingly competitive telecommunications marketplace is the responsibility of the

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1/ See, e.g., Comments of American Personal Communications, Associated PCN Company, Comsearch, Cox Enterprises, Omnipoint Communications, PCN America, Qualcomm, and Time Warner Telecommunications.

2/ See, e.g., Comments of American Personal Communications, Cox Enterprises, Omnipoint Communications, PCN America, and Qualcomm.

3/ See, e.g., Comments of American Personal Communications, Cox Enterprises, Omnipoint Communications, PCN America, and Personal Communications Network Services of New York.

4/ See, e.g., Comments of American Personal Communications, Omnipoint Communications, Personal Communications Network Services of New York, and Qualcomm.

Commission, and that the Commission does not meet its public interest responsibilities simply by minimizing the burdens of licensing decisions.

PerTel believes that persuasive arguments, supported by experience and logic, have been marshalled behind this developing consensus among independent PCS proponents. But not all commenters in this proceeding are "independent." Large numbers of commenters have interests in current services, or technology used by those services, that they naturally seek to protect. Although incumbent service providers who fear that they will be injured by new services always have points of view that warrant consideration by the Commission, the Commission generally can expect that their viewpoints will be expressed in straightforward opposition. For example, the incumbent OFS microwave users now operating in the 1850-1990 MHz band have not disguised their concern about having their systems adversely affected by PCS sharing of the band. And while PerTel believes their fears have been greatly exaggerated, at least they are candid about the general nature of their concerns.

Existing cellular interests, on the other hand, have wrapped their protectionist concerns in a mantle of support for PCS. What they plainly intend, however, is to hobble the development of PCS as a competitive service, and to leave the new industry prey to acquisition by the cellular interests themselves. The almost uniform recommendations of cellular

interests are that the Commission assign only 20 MHz of spectrum per licensee, license five PCS operators by market, use random selection lottery techniques to choose licensees, and incorporate MSAs and RSAs as license service areas. <sup>5/</sup> It should be obvious to the Commission that these are not the suggestions of parties seeking a robust, competitive PCS industry. Perhaps more to the point, these suggestions are nowhere supported by indications that will be sufficient to permit the development of PCS. Compared to the detailed explanations by independent PCS proponents why the Commission should grant large spectrum blocks to a small number of licensees for large service areas, the cellular interests have few justifications for their proposals. As a general rule they do not even address the need for PCS operators to share frequencies with incumbent microwave users. Nor do they acknowledge the huge regional (and national) areas now served by the few largest cellular licensees.

In the initial round of Comments, no party supporting a lottery for the award of PCS licenses specifically addressed

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<sup>5/</sup> See, e.g., Comments of Rural Cellular Corp., Vanguard Cellular, Rock Hill Telephone Co., National Telephone Cooperative Association, South Carolina Telephone Association, McCaw Cellular Communications, National Rural Telecom Association and Organization for Protection and Advancement of Small Telephone Companies, and the United States Telephone Association.

the proposals that have been made for streamlined comparative hearings. As proposed by PerTel and American Personal Communications, paper hearings could be efficient, quick, and unburdensome on the Commission and the parties. If the Commission does not wish to use comparative hearings for all PCS regions, PerTel has suggested that the top 20 market licenses can be awarded by comparative hearings, with the smaller 29 market licenses awarded by lottery. It is especially important for the launching of this critical new service that the licensees of the largest markets be as qualified as possible. Only comparative hearings will assure this.

The Commission should not underestimate the significance for the historical development of the cellular industry of the fact that the top cellular markets were awarded through the comparative hearing process. That process acted to winnow out unqualified parties, and the earliest cellular markets were awarded to qualified entities that, for the most part, intended to construct and operate cellular systems. Were the Commission to declare initially that all licenses for PCS would be awarded by lottery, there would be no such purification process to assure that applicants would be qualified and prepared to construct and operate PCS systems -- even if the various suggestions intended to reduce the number of speculators were adopted.

Several parties have proposed national licenses. As noted in PerTel's Comments, national licenses present an enormous potential for competitive abuse. PerTel recognizes that there is a significant need for interoperability among all PCS systems in the same frequency bands. We recommend that the Commission require that licensees enter into some consortium or confederation to assure that all operators in a band have interoperability (if not uniform standards), national roaming, and standardized billing practices. But we do not believe that a national license, such as that proposed by MCI, is necessary or advisable.

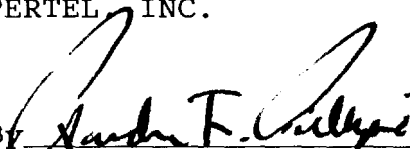
PerTel believes that PCS has the potential to meet an enormous market demand. For PCS to develop to meet that

demand, however, the Commission must move quickly to authorize a robust competitive service in which only qualified operators receive authorizations.

Respectfully submitted,

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January 8, 1993

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A handwritten signature in cursive script, appearing to read "Stephanie Jones", is written over a horizontal line.

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